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EXAMINER
ROBINSON BOYCE, AKIBA K

ART UNIT	PAPER NUMBER
3639	

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Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Office Action Summary	09/681,050	CHICKERING ET AL.
	Examiner	Art Unit	
	Akiba K Robinson-Boyce	3639	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>21 December 2004</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-11 and 13-30* is/are pending in the application.

     4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-11 and 13-30* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

     a)☐ All   b)☐ Some * c)☐ None of:

       1.☐ Certified copies of the priority documents have been received.

       2.☐ Certified copies of the priority documents have been received in Application No. _____.

       3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

     * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
     Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
     Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

Status of Claims

1.   Due to communications filed 12/21/04, the following is a non-final office action.

Claims 1, 7, 11, 24, 28, 29 and 30 have been amended. Claim 12 is cancelled. Claims

1-11 and 13-30 are pending in this application and have been examined on the merits.

The previous rejection has been withdrawn, and prosecution has been re-opened on

this case. The following rejection reflects the claims as amended.

Claim Rejections - 35 USC § 101

2.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3.   Claims 1-11 and 13-26 are rejected under 35 U.S.C. 101 because the claimed

invention is directed to non-statutory subject matter. As to technological arts recited in

the preamble, mere recitation in the preamble (i.e., intended or field of use) or mere

implication of employing a machine or article of manufacture to perform some or all of

the recited steps does not confer statutory subject matter to an otherwise abstract idea

unless there is positive recitation in the claim as a whole to breath life and meaning into

the preamble.

In the present case, the preamble of claim 1 recites "A computer-implemented method for soliciting a sub-population of a population". Claim 1 does include employing a component" in the body of the claim, however, since this component is not defined, it is not clear as to if the component is computer hardware or software embodied on a tangible medium, and therefore, claim 1 and all claims that depend from it (2-10) are non-statutory.

In the present case, the preamble of claim 11 recites "A computer-implemented method for constructing a decision theoretic model to identify a sub-population of a population to solicit to maximize an expected increase in profits". However, since no computer hardware or software embodied on a tangible medium are in the body of the claim, claim 11 and all claims that depend from it (13-23) are therefore non-statutory.

In the present case, the preamble of claim 24 recites "A computer-implemented method using a module for constructing a decision theoretic model to identify a sub-population of a population to solicit and a non-solicited sub-population to maximize an expected increase in profits". However, since no computer hardware or software embodied on a tangible medium are in the body of the claim, claim 24 and the following claims that depend from it (25-26) are therefore non-statutory.

Claim Rejections - 35 USC § 102

4.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by
another filed in the United States before the invention by the applicant for patent or (2) a patent
granted on an application for patent by another filed in the United States before the invention by the
applicant for patent, except that an international application filed under the treaty defined in section
351(a) shall have the effects for purposes of this subsection of an application filed in the United States
only if the international application designated the United States and was published under Article 21(2)
of such treaty in the English language.

5.   Claims 1, 9 and 28 are rejected under 35 U.S.C. 102(e) as being anticipated by

Grosser et al (US 6,826,552).

As per claim 1, Grosser et al discloses:

Employing a component to identify the sub-population to solicit and a non-

solicited sub-population by using a computer-implemented decision theoretic model,

(Col. 31, lines 51-55, advocate applying choices to user, col. 32, lines 5-7, shows

choices are applied in an unsolicited manner, Col. 21, lines 47-49, shows decision-

making system is implemented through a client-server model);

Setting a solicitation variable to a first value for each of a plurality of members of

the solicitation sub-population and to a second value for each of a plurality of members

of the non-solicitation sub-population, (col. 5,lines 22-40, user assisted by advocate,

also shows triggering of an unsolicited opinion, in this case the solicitors and non-

solicitors are distinguished through relatively large differences between one or more

attribute values of proposals).

Soliciting the sub-population identified to solicit, (Col. 5, lines 57-65, using

advocates to assist the user in making a decision);

Setting a purchase variable to a first value for each of the plurality of members of

the solicitation and the non-solicitation sub-population that made a purchase and to a

second value for each of the plurality of members of the solicitation and the non-

solicitation sub-population that did not make the purchase, (col. 5, lines 48-52, shows

that values are assigned to the facet, w/ col. 10,lines 26-44, shows that the upper facet

contains house proposals, and the 3rd pane of the facet contains rejected choices).

Grosser et al does not specifically disclose that decision theoretic model is

constructed to maximize an expected increase in profits, however, this limitation is

inherent with Grosser et al since Grosser et al discloses a decision-making system that

assists a user in making a buying purchase decision as disclosed in col. 2, line 66-col.

3, line 2. This buying purchase decision will lead a customer to buy an item, which in

turn increases profits for the merchant.

As per claim 9, Grosser et al discloses:

wherein soliciting the sub-population identified comprises e-mailing a solicitation

to each of a plurality of members of the sub-population, (col. 14, lines 47-50, email).

As per claim 28, Grosser et al discloses:

A module that receives input regarding a population, (Col. 31 lines 21-25,

computer readable media that accepts user input)

A decision theoretic model that determines a subset of the population to solicit

with the advertising and a non-solicited sub-population so as to maximize an expected

increase in profits from the solicitation, (Col. 31, lines 51-55, advocate applying choices

to user, col. 32, lines 5-7, shows choices are applied in an unsolicited manner, Col. 21,

lines 47-49, shows decision-making system is implemented through a client-server

model);

Means for setting a solicitation variable to a first value for each of a plurality of members of the solicitation sub-population and to a second value for each of a plurality of members of the non-solicitation sub-population, (col. 5,lines 22-40, user assisted by advocate, also shows triggering of an unsolicited opinion, in this case the solicitors and non-solicitors are distinguished through relatively large differences between one or more attribute values of proposals);

Means for setting a purchase variable to a first value for each of a plurality of members of the solicitation sub-population and to a second value for each of a plurality of members of the non-solicitation sub-population, (col. 5, lines 22-40, user assisted by advocate, also shows triggering of an unsolicited opinion, in this case the solicitors and non-solicitors are distinguished through relatively large differences between one or more attribute values of proposals).

Grosser et al does not specifically discloses that decision theoretic model is constructed to maximize an expected increase in profits, however, this limitation is inherent with Grosser et al since Grosser et al discloses a decision-making system that assists a user in making a buying purchase decision as disclosed in col. 2, line 66-col. 3, line 2. This buying purchase decision will lead a customer to buy an item, which in turn increases profits for the merchant.

Claim Rejections - 35 USC § 103

6.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

7.   Claims 2-7, 11, 13-27, 29, 30 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Grosser et al as applied to claim 1 above, and further in view of

Kohavi (US 6,182,058).

As per claims 2, 5-7,11, 24, 25, 29, 30, Grosser et al discloses:

using a sample of the population to obtain values for the sample of the population

for each of a solicitation variable and a purchase variable, the solicitation variable

having a first value corresponding to solicitation and a second value corresponding to

non-solicitation, and the purchased variable having a first value corresponding to

purchase and a second value corresponding to non-purchase/constructing a decision

tree, (Col. 31, lines 51-55, advocate applying choices to user, col. 32, lines 5-7, shows

choices are applied in an unsolicited manner, Col. 21, lines 47-49, shows decision-

making system is implemented through a client-server model),using a marginal

likelihood scoring criterion, (Col. 18, lines 1-11, using qualified value);

dividing the sample of the population into a non-solicitation group and a

solicitation group and setting the solicitation variable to the first value for each of a

plurality of members of the solicitation group and to the second value for each of a

plurality of members of the non-solicitation group (col. 5,lines 22-40, user assisted by advocate, also shows triggering of an unsolicited opinion, in this case the solicitors and non-solicitors are distinguished through relatively large differences between one or attribute values of proposals).

Soliciting the sub-population identified/applying the decision tree against the population to identify the sub-population to solicit..., (Col. 5, lines 57-65, using advocates to assist the user in making a decision);

Setting a purchase variable to a first value for each of the plurality of members of the solicitation and the non-solicitation sub-population that made a purchase and to a second value for each of the plurality of members of the solicitation and the non-solicitation sub-population that did not make the purchase, (col. 5, lines 48-52, shows that values are assigned to the facet, w/ col. 10,lines 26-44, shows that the upper facet contains house proposals, and the 3rd pane of the facet contains rejected choices).

Utilizing a component to construct a decision tree as the decision theoretic model from the sample using a predetermined scoring criterion wherein using the decision theoretic model comprises using a decision tree/applying the decision tree against the population to identify the sub-population to solicit.../constructing a decision tree...applying the decision tree..., (col. 20, lines 55-58, decision tree);

Grosser et al does not disclose the decision tree having a plurality of paths from a root node to a plurality of leaf nodes, each of the plurality of paths having a split on a solicitation variable having a first value corresponding to solicitation and a second value corresponding to non-solicitation/the decision tree having a plurality of paths from a root

node to a plurality of leaf nodes, each of the plurality of paths having a last split on the

solicitation variable, and each of the plurality of leaf nodes providing a value for a

probability conditional on at least the purchase variable/wherein each of the plurality of

leaf nodes provides a value for a probability conditional on at least the purchase

variable having a first value corresponding to purchase and a second value

corresponding to non-purchase/wherein identifying the sub-population to solicit further

initially comprises performing an experiment using a sample of the population to obtain

values for the sample of the population for each of the solicitation variable and a

purchase variable, the purchase variable having a first value corresponding to purchase

and a second value corresponding to non-purchase, but does disclose a decision-

making system that triggers both solicited and unsolicited advocates in Col. 5, line 22-

40.

However, Kohavi discloses:

the decision tree having a plurality of paths from a root node to a plurality of leaf

nodes, each of the plurality of paths having a split on a solicitation variable having a first

value corresponding to solicitation and a second value corresponding to non-

solicitation/the decision tree having a plurality of paths from a root node to a plurality of

leaf nodes, each of the plurality of paths having a last split on the solicitation variable,

and each of the plurality of leaf nodes providing a value for a probability conditional on

at least the purchase variable/wherein each of the plurality of leaf nodes provides a

value for a probability conditional on at least the purchase variable having a first value

corresponding to purchase and a second value corresponding to non-purchase/wherein

identifying the sub-population to solicit further initially comprises performing an

experiment using a sample of the population to obtain values for the sample of the

population for each of the solicitation variable and a purchase variable, the purchase

variable having a first value corresponding to purchase and a second value

corresponding to non-purchase, (Col. 3, lines 10-16, Fig. 6 [616], where the solicit value

is represented by the make route node a decision node, and the non-solicit value is

represented by make route node a leaf node], col. 5, lines 48-52, shows that values are

assigned to the facet, w/ col. 10,lines 26-44, shows that the upper facet contains house

proposals, and the 3rd pane of the facet contains rejected choices), Kohavi discloses

this limitation in an analogous art for the purpose of showing that decision nodes are

used to determine a solution for certain attributes.

It would have been obvious to one of ordinary skill in the art at the time of the

applicant's invention to utilize a decision tree with the motivation of showing that

solutions that come from the decision tree can go through several paths to come up with

a solution.

Grosser et al does not disclose construction the decision tree comprises using a

greedy approach, however discloses disclose a decision-making system that

incorporates decision trees in Col. 20, lines 55-58.

However, Kohavi discloses:

wherein construction the decision tree comprises using a greedy approach in

Fig.5, [500], in this figure, a plurality of interim leaf nodes shown in [516, 520,524, 528,

and 532] are disclosed, which is a greedy approach. Kohavi discloses this approach in

an analogous art for the purpose of showing an alternative approach for constructing a decision tree where many decision points will exist.

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to use a greedy approach with the motivation of using a decision tree that will generate many decision points.

Grosser et al does not specifically discloses that decision theoretic model is constructed to maximize an expected increase in profits, however, this limitation is obvious with Grosser et al since Grosser et al discloses a decision-making system that assists a user in making a buying purchase decision as disclosed in col. 2, line 66-col. 3, line 2. this buying purchase decision will lead a customer to buy an item, which in turn increases profits for the merchant.

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to use a decision theoretic model to maximize an expected increase in profits with the motivation of solicit the user to purchase items that will lead to greater revenue and thus, greater profits.

As per claim 3, Grosser et al fails to disclose "wherein the decision tree is constructed such that the split on the solicitation variable of each of the plurality of paths is a last s p l it ",but does disclose a decision-making system that triggers both solicited and unsolicited advocates in Col. 5, line 22-40.

However, Kohavi discloses:

wherein the decision tree is constructed such that the split on the solicitation variable of each of the plurality of paths is a last split, (Col. 4, lines 54-67, [when test

result = true, classification occurs and a label is output, this represents the last split]).

Kohavi discloses this limitation in an analogous art for the purpose of showing that the

last split leads to the final decision.

It would have been obvious to one of ordinary skill in the art at the time of the

applicant's invention to construct the decision tree such that the split on the solicitation

variable represents the last split with the motivation on determining a final decision on

the solicitation variable in order to decide who to solicit.

As per claim 4, Grosser et al fails to disclose "wherein the decision tree is

constructed such that the split on the solicitation variable of each of the plurality of paths

is a first Split", but does disclose a decision-making system that triggers both solicited

and unsolicited advocates in Col. 5, line 22-40.

However Kohavi discloses:

wherein the decision tree is constructed such that the split on the solicitation

variable of each of the plurality of paths is a first Split, (Col. 4, lines 54-67, Fig. 6, [when

test result = no, the path will lead back to the beginning of the process]). Kohavi

discloses this feature in an analogous art for the purpose of showing that a decision can

occur at the beginning of the process.

It would have been obvious to one of ordinary skill in the art at the time of the

applicant's invention to construct a decision tree such that the split on the solicitation

variable of each of the plurality of paths is a first split with the motivation of showing that

a decision with respect to solicitation can occur at the beginning of a process.

As per claim 8, Grosser et al fails to disclose wherein soliciting the sub-population identified comprises mailing a solicitation to each of a plurality of members of the sub-population, but does disclose a decision-making system that triggers both solicited and unsolicited advocates in Col. 5, line 22-40.

However, Kohavi discloses:

wherein soliciting the sub-population identified comprises mailing a solicitation to each of a plurality of members of the sub-population, (Col. 1, lines 52-57, [mail sent only to people who are labeled by classifier). Kohavi discloses this limitation in an analogous art for the purpose of sending mail to a population during a campaign.

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to mail a solicitation to each of a plurality of members of the sub-population with the motivation of utilizing postal services for solicitation.

As per claim 13, Grosser et al fails to disclose wherein construction the decision tree comprises using a greedy approach, however discloses disclose a decision-making system that incorporates decision trees in Col. 20, lines 55-58.

However, Kohavi discloses:

wherein construction the decision tree comprises using a greedy approach in Fig.5, [500], in this figure, a plurality of interim leaf nodes shown in [516, 520,524, 528, and 532] are disclosed, which is a greedy approach. Kohavi discloses this approach in an analogous art for the purpose of showing an alternative approach for constructing a decision tree where many decision points will exist.

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to use a greedy approach with the motivation of using a decision tree that will generate many decision points.

As per claim 14, Grosser et al fails to disclose wherein construction the decision tree comprises using a greedy approach, however discloses disclose a decision-making system that incorporates decision trees in Col. 20, lines 55-58.

However, Kohavi discloses:

wherein the predetermined scoring criterion is a holdout criterion, (col. 8, lines 40-42, [holdout]. Kohavi discloses this limitation in an analogous art for the purpose of showing different methods of scoring in order to make a decision.

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to use holdout criterion with the motivation of using holdout criterion in order to generate a score.

As per claim 15, Grosser et al fails to disclose wherein construction the decision tree comprises using a greedy approach, however discloses disclose a decision-making system that incorporates decision trees in Col. 20, lines 55-58

However, Kohavi discloses:

wherein the predetermined scoring criterion is a cross-validation holdout criterion, (Col. 8, lines 40-42, [cross-validation]). Kohavi discloses this limitation in an analogous art for the purpose of showing different methods of scoring in order to make a decision.

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to use cross-validation criterion with the motivation of using cross-validation data in order to generate a score.

As per claims 16, Grosser et al discloses

wherein the predetermined scoring criterion is a marginal likelihood criterion, (Col. 18, lines 1-11, qualified value).

As per claims 17, Grosser et al discloses

wherein the predetermined scoring criterion is an adjusted marginal likelihood criterion, (Col. 18, lines 12-14, modified value).

As per claim 18, Grosser et al fails to disclose wherein construction the decision tree comprises using a greedy approach, however discloses disclose a decision-making system that incorporates decision trees in Col. 20, lines 55-58.

However Kohavi discloses:

wherein the split on the solicitation variable of each of the plurality of paths is a last split, (Col. 4, lines 54-67, [when test result = true, classification occurs and a label is output, this represents the last split]). Kohavi discloses this limitation in an analogous art for the purpose of showing that the last split leads to the final decision.

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to construct the decision tree such that the split on the solicitation variable represents the last split with the motivation on determining a final decision on the solicitation variable in order to decide who to solicit.

As per claim 19, Grosser et al fails to disclose wherein construction the decision

tree comprises using a greedy approach, however discloses disclose a decision-making

system that incorporates decision trees in Col. 20, lines 55-58.

However Kohavi discloses:

initializing the decision tree with an initial single leaf node as the root

node, (Fig. 5 [504]) ;

using the greedy approach to construct the decision tree with no splits

on the solicitation variable, the decision tree after construction using

the greedy approach having a plurality of interim leaf nodes', and,

performing a split on the solicitation variable at each of the plurality of

interim leaf nodes to generate the plurality of leaf nodes, (Fig. 5, [504], shows a plurality

of leaf nodes in [516, 520, 524, 528, 532]). Kohavi discloses these limitations in an

analogous art for the purpose of showing how the decision tree branches off into a

plurality of decision points.

It would have been obvious to one of ordinary skill in the art at the time of the

applicant's invention to use a greedy approach with the motivation of using a decision

tree that will generate many decision points.

As per claim 20, Grosser et al fails to disclose wherein construction the decision

tree comprises using a greedy approach, however discloses disclose a decision-making

system that incorporates decision trees in Col. 20, lines 55-58.

However Kohavi discloses:

wherein the split on the solicitation variable of each of the plurality of paths is a

first split at the root node, (Col. 4, lines 54-67, Fig. 6, [when test result = no, the path will

lead back to the beginning of the process]). Kohavi discloses this feature in an

analogous art for the purpose of showing that a decision can occur at the beginning of

the process.

It would have been obvious to one of ordinary skill in the art at the time of the

applicant's invention to construct a decision tree such that the split on the solicitation

variable of each of the plurality of paths is a first split with the motivation of showing that

a decision with respect to solicitation can occur at the beginning of a process.

As per claim 21, Grosser et al fails to disclose wherein construction the decision

tree comprises using a greedy approach, however discloses disclose a decision-making

system that incorporates decision trees in Col. 20, lines 55-58.

However Kohavi discloses:

initializing the decision tree with the first split at the root node on the

solicitation variable, (Col. 4, lines 54-67, Fig. 5 [504], [first split to [508] and [512] occurs

at the root nod [504]). Kohavi discloses this feature in an analogous art for the purpose

of showing that a decision can occur at the beginning of the process.

It would have been obvious to one of ordinary skill in the art at the time of the

applicant's invention to construct a decision tree such that the split on the solicitation

variable of each of the plurality of paths is a first split with the motivation of showing that

a decision with respect to solicitation can occur at the beginning of a process.

using a greedy approach to finish constructing the decision tree, (Fig. 5, [504],

shows a plurality of leaf nodes in [516, 520, 524, 528, 532]). Kohavi discloses these

limitations in an analogous art for the purpose of showing how the decision tree

branches off into a plurality of decision points.

It would have been obvious to one of ordinary skill in the art at the time of the

applicant's invention to use a greedy approach with the motivation of using a decision

tree that will generate many decision points.

As per claim 22, Grosser et al discloses:

Soliciting the sub-population identified, (Col. 5, lines 57-65, using advocates to

assist the user in making a decision);

As per claims 23, 27, Grosser et al discloses:

wherein the method is performed by execution of a computer program by a

processor from a computer-readable medium, (Col. 31, lines 18-20, computer-readable

media).

As per claim 26, Grosser discloses:

wherein soliciting the sub-population identified comprises one of: calling each of

a plurality of members of the sub-population, mailing a solicitation to each of the

plurality of members of the sub-population, and e-mailing the solicitation to each of the

plurality of embers of the sub-population, (col. 14, lines 47-50, email).

8.   Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Grosser

et al as applied to claim 1 above, and further in view of Cooper et al (US 5,737,416).

As per claim 10, Grosser et al fails to disclose wherein soliciting the sub-population identified comprises calling each of a plurality or members of the sub-population, but does disclose a decision-making system that triggers both solicited and unsolicited advocates in Col. 5, line 22-40.

However Cooper et al discloses:

wherein soliciting the sub-population identified comprises calling each of a plurality or members of the sub-population, (col. 10, lines 3-11, telephone). Cooper discloses this limitation in an analogous art for the purpose of showing the communication means to facilitate interaction between the customer and the vendor where new customers are solicited for the sampling of new software products.

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to solicit the sub-population identified by calling each of a plurality or members of the sub-population with the motivation of utilizing a common communication means to solicit customers.

Response to Arguments

9.   Applicant's arguments with respect to claims 1-11 and 13-30 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

10.   Newly cited art, Takai et al (JP 04359365 A) has been included on the PTO-892 form since it discloses a decision-making system that incorporates economical information in order to make an appropriate financial decision.

11.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to Akiba K Robinson-Boyce whose telephone number is 571-272-6734. The examiner can normally be reached on Monday-Tuesday 8:30am-5pm, and Wednesday, 8:30 am-12:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on 571-272-6812. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-7238 [After final communications, labeled "Box AF"], 703-746-7239 [Official Communications], and 703-746-7150 [Informal/Draft Communications, labeled "PROPOSED" or "DRAFT"].

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

A. R. B.
April 27, 2005

THOMAS A. DIXON
PRIMARY EXAMINER